

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

SCOTT ANDREW WITZKE,

Plaintiff,

Case No. 21-cv-11346
Hon. Matthew F. Leitman

v.

JORDAN RIECK, *et al.*,

Defendants.

/

**ORDER (1) RESOLVING PLAINTIFF’S MOTION FOR
RECONSIDERATION (ECF No. 42); (2) DIRECTING
DEFENDANTS TO SERVE CERTAIN DOCUMENTS ON
PLAINTIFF; AND (3) SETTING DEADLINES**

On June 9, 2021, Plaintiff Scott Andrew Witzke filed this civil-rights action against several law enforcement officers and the City of Madison Heights arising from a 2019 incident in which Witzke was arrested. (*See* Compl., ECF No. 1.) Currently pending before the Court are two motions seeking to dispose of Witzke’s claims: (1) Defendant Trooper Robert Allen McLean’s motion to dismiss, which he filed on August 27, 2021, (*see* Mot., ECF No. 17); and (2) the remaining Defendants’ (the “Madison Heights Defendants”) motion for judgment on the pleadings, which they filed on February 10, 2022. (*See* Mot., ECF No. 35.)

In March 2022, the Court issued two orders pertaining to these motions. The first (the “Supplemental Response Order”) ordered Witzke to submit a supplemental brief responding to the qualified immunity argument in McLean’s motion to dismiss.

(*See* Supp'l Resp. Order, ECF No. 37.) The second (the "Show Cause Order") ordered Witzke to respond to the Madison Heights' Defendants' motion for judgment on the pleadings or risk dismissal for failure to prosecute. (*See* Show Cause Order, ECF No. 38.)

Subsequently, on March 21, 2022, the Court received Witzke's motion for a stay or extension. (*See* Mot., ECF No. 39.) Witzke's motion explained that he was arrested on January 13, 2022 and is now serving a jail sentence that is set to expire on August 25, 2022 (at the latest). (*See id.*, PageID.326.). He requested that this Court either (1) stay his case until his release from jail; or (2) extend his briefing deadlines by 60 days and order the Clerk of the Court to send him paper copies of the case file.

On March 28, 2022, the Court issued an order in which it (1) denied Witzke's request for a stay; (2) denied his request for paper copies of the case file; and (3) granted Witzke an extension through May 31, 2022 to file responses to the Supplemental Response Order and the Show Cause Order. (*See* Order, ECF No. 41.)

Witzke has now moved for reconsideration of the March 28 order. (*See* Mot., ECF No. 42.) Witzke insists that he is unable to access the case file from jail. Accordingly, he again asks this Court to either (1) stay his case until he is released from jail; and/or (2) order the Clerk and Defendants to serve him with copies of the docket and certain case filings.

Under these unusual circumstances, the Court concludes that the most appropriate course is to order Defendants to provide Witzke with paper copies of the documents he seeks and then require Witzke to provide the responses required by the Court's earlier orders. This will avoid a lengthy stay of Witzke's case and permit the Court to promptly resolve Defendants' motions on the merits.

For these reasons, **IT IS ORDERED THAT:**

- By not later than **May 2, 2022**, counsel for McLean shall serve by ordinary mail on Witzke at his current address, Scott A. Witzke #392924 c/o Livingston County Jail, 150 S. Highlander Way, Howell, MI 48843, copies of the following documents:
 - The docket sheet;
 - The Complaint (ECF No. 1);
 - McLean's Motion to Dismiss (ECF No. 17);
 - Witzke's Response to McLean's Motion to Dismiss (ECF No. 22);
 - McLean's Reply in Support of his Motion to Dismiss (ECF No. 36); and
 - The Supplemental Response Order (ECF No. 37).
- By not later than **May 2, 2022**, counsel for the Madison Heights Defendants shall serve by ordinary mail on Witzke, at the address listed above, copies of the following documents:
 - The Madison Heights Defendants' Answer with Affirmative Defenses (ECF No. 16);
 - The Madison Heights Defendants' Motion for Judgment on the Pleadings (ECF No. 35); and
 - The Show Cause Order (ECF No. 38).

- By not later than **May 2, 2022**, Defendants shall also file on this Court's docket a proof of service indicating that they have served the foregoing documents on Witzke.
- By not later than **May 31, 2022**, Witzke shall file the responses required by the Court's Supplemental Response Order (ECF No. 37) and Show Cause Order (ECF No. 38).
- Witzke's failure to meet the deadlines set forth in this order may lead to the granting of the pending motions and the dismissal of his claims.

s/Matthew F. Leitman

MATTHEW F. LEITMAN

UNITED STATES DISTRICT JUDGE

Dated: April 25, 2022

I hereby certify that a copy of the foregoing document was served upon the parties and/or counsel of record on April 25, 2022, by electronic means and/or ordinary mail.

s/Holly A. Ryan

Case Manager

(313) 234-5126